



NORTH CAROLINA  
Environmental Quality

ROY COOPER  
Governor

MICHAEL S. REGAN  
Secretary

BRAXTON C. DAVIS  
Director

October 28, 2019

Dear Sir or Madam:

Thank you for your recent communication concerning the Coastal Area Management Act (CAMA) Major Permit application submitted by the Town of Sunset Beach, in which permission was requested to dredge canals A-D, the Feeder Channel, Bay Area, and an area of South Jinks Creek on the east end of Sunset Beach with placement of dredged materials on 1,600 linear feet of oceanfront beach located in Sunset Beach, Brunswick County. The Division appreciates your concerns about the proposed project.

In this case inconsistencies with the rules of the North Carolina Coastal Resources Commission were identified. Consequently, the Division has issued a **conditioned** Major Permit No. 79-19 for the proposed activities. A copy of the permit is being provided to you for your information.

Please note Condition No. 2, where excavation is limited to -2 feet below mean low water. In addition, many citizens expressed concerns regarding potential environmental impacts to adjacent primary nursery area (PNA), coastal wetlands, oysters, and nesting sea turtles; please see Conditions 1, 4, 5, 7, and 12 of the attached permit for conditions related to these concerns. For concerns raised regarding beach front work; please see condition 11 indicating that easements or similar legal instruments must be obtained from the impacted property owner(s) prior to the initiation of any beach activity. For concerns raised regarding public access to the beach; please see conditions 26 and 31 that address minimization of construction impacts and free use of the public areas.

I have included a copy of the third-party appeal form. If you wish to object to the actions taken on this permit application, you may request an appeal of this decision within twenty (20) days of the permit decision. Please feel free to contact me by telephone at (252) 808-2808, or by email at [gregg.bodnar@ncdenr.gov](mailto:gregg.bodnar@ncdenr.gov) with any questions or concerns.

Sincerely,

Gregg Bodnar  
Assistant Major Permits Coordinator

cc: WiRO file  
MHC file



**CAMA THIRD PARTY  
HEARING REQUEST FORM**

**DCM FORM 5**  
**DCM FILE No: \_\_\_\_\_**

PETITIONER'S NAME \_\_\_\_\_

COUNTY WHERE THE DEVELOPMENT IS PROPOSED \_\_\_\_\_

PLEASE TAKE NOTE that the undersigned, a person affected by the decision of (check one):

\_\_\_\_\_ a Local Permit Officer acting on a CAMA Minor Development Permit application; or

\_\_\_\_\_ the Division of Coastal Management acting on a CAMA Permit application

hereby requests permission from the Coastal Resources Commission (CRC) to file an appeal pursuant to N.C.G.S. § 113A-121.1(b) and 15A N.C.A.C. 07J .0301. *(Please attach a copy of the permit. If you cannot obtain a copy of the permit, please provide the name of the permittee, the project location, and the permit number.)* Requests are reviewed and determined by the chairman of the CRC to determine whether a hearing should be granted. 15A N.C.A.C. 07J .0301(b). Approval of a Third Party Hearing Request allows a petitioner to file a contested case petition with the Office of Administrative Hearings within twenty (20) days of receipt of the CRC's Order. N.C.G.S. § 113A-121.1(b). Denial of a Third Party Hearing Request is a final agency decision which may be appealed to Superior Court under N.C.G.S. § 113A-121.1(b) and Chapter 150B, Article 4.

For this application to be complete, the Petitioner must address each of the three factors listed below. The CRC's chairman's decision to grant a hearing will be based on whether the Petitioner:

- (1) **Has alleged that the decision is contrary to a statute or rule** [N.C.G.S. § 113A-121.1(b)(1)]; *(Please cite the statute or regulation allegedly violated by the permit decision.)*
- (2) **Is directly affected by the decision** [N.C.G.S. § 113A-121.1(b)(2)]; and *(Please describe how you are directly affected by the permit decision. Persons directly affected by a decision often include, but are not limited to, owners of real property in the vicinity of the proposed development who can show that it is likely to have a significant adverse effect on the value and enjoyment of their property, or persons who can demonstrate a history of substantial use of public resources in the area directly affected by the development.)*
- (3) **Has alleged facts or made legal arguments that demonstrate that the request for the hearing is not frivolous** [N.C.G.S. § 113A-121.1(b)(3)]. *(Summarize the evidence and arguments you would present at a hearing in support of your appeal explaining why the permit was improperly issued.)*

**Please answer these questions on a separate piece of paper and attach it to this form.**

*The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as this Third Party Hearing Request before the Commission. These opinions note that the practice of non-lawyer professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written argument may be considered the practice of law. Before you proceed with this hearing request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.*

### **DELIVERY OF THIS HEARING REQUEST**

This request must be **received** by the Division of Coastal Management (DCM) within twenty (20) days of the date of the disputed permit decision. N.C.G.S. § 113A-121.1(b). Failure to do so constitutes waiver of the right to request a hearing. A copy of this request must also be sent to the Attorney General's Office, Environmental Division. 15A N.C.A.C. 07J .0301(b).

#### Contact Information for DCM:

**By mail, express mail or hand delivery:**

Director  
Division of Coastal Management  
400 Commerce Avenue  
Morehead City, NC 28557

**By Fax:**

(252) 247-3330

**By Email:**

Check DCM website for the email  
address of the current DCM Director  
**[www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)**

#### Contact Information for Attorney General's Office:

**By U.S. mail:**

Environmental Division  
9001 Mail Service Center  
Raleigh, NC 27699-9001

**By express mail:**

Environmental Division  
114 W. Edenton Street  
Raleigh, NC 27603

**By Fax:**

(919) 716-6767

Based on the attached responses to the above factors, the undersigned hereby requests a third party hearing.

\_\_\_\_\_  
Signature of Petitioner or Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Petitioner or Attorney

\_\_\_\_\_  
Email address of Petitioner or Attorney

\_\_\_\_\_  
Mailing Address

( ) \_\_\_\_\_  
Telephone number of Petitioner or Attorney

\_\_\_\_\_  
City

\_\_\_\_\_  
State

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Zip

( ) \_\_\_\_\_  
Fax number of Petitioner or Attorney

Updated: February 2011